IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION Nos. 21183, 21709, 22190 AND 25027 OF 2003

1)WRIT PETITION No. 21183 OF 2003

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Between:

1. S. Laxmi, D/o Balaswamy,
R/o H.No.7-39, Perkiwada, Achampet, Mahabubnagar District.
2. G. Anitha, D/o G. Narayana,
R/o H.No.41-115, N.T.R.Colony, Wanaparthy, Mahabubnagar Dist.,
3. T.K.Venkat Ramulu, S/o T.K.Pullanna,
R/o H.NO.401, Telugupeta, Gadwal, Mahabubnagar District.

..... PETITIONERS

AND

1. The District Collector, Mahabubnagar District, Mahabubnagar.
2. The District Educational Officer, Mahabubnagar District, Mahabubnagar.
3. The Secretary, Board of Education (G.C.,), M.B.Schools, H.No.16-155,
Brahmamgari St., Wanaparthy 509103, Mahabubnagar District.
4. The Deputy District Educational Officer, Mahabubnagar.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to call for records relating to the written test and interviews of the candidates for recruitment of various posts in teaching and non-teaching staff by the 3rd respondent on 12-9-2003 and set aside the same by declaring the same as illegal, arbitrary and against Articles 14 & 16 of the Constitution of India and in consequence thereof to

direct the 2nd respondent to conduct fresh examination in order to fill-up vacancies as notified by the 3rd respondent in the month of May, 2003 by issuing a writ or order more particularly in the nature of writ of mandamus or any other appropriate direction from this Hon'ble Court.

Counsel for the Petitioners: Mr. M.Giri

Counsel for the Respondent Nos.1,2&4: G.P. for School

Education.

Counsel for Respondent No.3: Mr.S.Srinivas Reddy.

2)WRIT PETITION No. 21709 of 2003

Between:

Board of Education (Governing Council)
M.B.Schools, M.B.Mission Compound,
Mahaboobnagar Rep. by its Secretary, P.George.

..... PETITIONER

AND

1. The State of A.P., represented by its
Secretary, School Education Department,
Secretariat, Hyderabad.
2. The Commissioner & Director of School Education,

Saifabad, Hyderabad.
3. The Regional Joint Director of School Education, Zone-VI
Kachiguda, Hyderabad.
4. The District Educational Officer,
Mahaboobnagar District, Mahaboobnagar.
5. B. Eranna, S/o. B. Bazarappa, Unemployee, C/o. V.T. Aayyanna,
Shett Atmakur Village, Gadwal Mandal, Mahabubnagar District.
(R-5 is impleaded as per Court order dated 24.12.2003 in WPMP 31940/2003).
6. Smt. D.D. Swarooparani, D/o. DD Eswarlal, School Assistant, MBCH,
Mahabubnagar.
7. S. Venkateshwar Reddy, S/o. S. Janaki Rami Reddy, School Assistant, MBCH,
Wanaparthy, Mahabubnagar District.
8. Srinivas Reddy, S/o. Narsi Reddy, SG Teacher, MBCH, Narayanapet,
Mahabubnagar District.
9. M. Raghavender, S/o. Sree Ramulu, SG Teacher, MBCH, Gadwal,
Mahabubnagar District.
10.J.L. Asheervadam, S/o. JA Luther, SG Teacher, MBCH, Narayanapet,
Mahabubnagar District.
11. Venkat Reddy, S/o. Somi Reddy, SG Teacher, MBCH, Narayanapet,
Mahabubnagar District.
12. S. David, S/o. S. Rathanam, SG Teacher, MBCH, Gadwal, Mahabubnagar

District.
13. Smt. Suveedamma, D/o. S. Rathnam, School Assistant, MBCH, Wanaparthy, Mahabubnagar District.
14. P. Deena Christdass, S/o. Christdass, School Assistant, MBCH, Wanaparthy, Mahabubnagar District.
15. SG Mercy, S/o. S.G. George, SG Teacher, MBCH, Gadwal, Mahabubnagar District.
16. MD. Rajan Babu, S/o. M. Danial, SG Teacher, MBCH, Gadwal, Mahabubnagar District.
17. Smt. B. Sarala Devi, D/o. B. Bakkaiah, SG Teacher, MBCH, Wanaparthy, Mahabubnagar District.
18.T. Sivanna, S/o. T. Hanumanna, SG Teacher, MBCH, Narayanapet, Mahabubnagar District.
19. P. Surender Kumar, S/o. P. Devanandam, SG Teacher, MBCH, Mahabubnagar District.
20. K. Ramulu, S/o. K. Thimmappa, SG Teacher, MBCH, Wanaparthy, Mahabubnagar District.
21. K.P. Prasuna, D/o. K.V. Puushotham, SG Teacher, MBCH, Mahabubnagar.
22. Smt. V. Girijamma, W/o. V. Narahari Rao, Telugu Pandit Teacher Gr-I, MBCH, Mahabubnagar.
23. Hepsibha Rani, D/o. KV Sunder, Telugu Pandit Teacher Gr-I, MBCH, Mahabubnagar.
24. V.C. Soujanya, D/o. VCJ Ramulu, DM, MBCH, Mahabubnagar.
25. Nazeema, D/o. Md. Osman, RAS, MBCH, Gadwal, Mahabubnagar.
26. Bhagavathamma, D/o. R. Balamaisaiah, RAS, MBCH, Mahabubnagar.
27. P.G. Priyanka, D/o. P. George, Jr. Asst., MBCH, Wanaparthy, Mahabubnagar District.
28. B. David, S/o. B. Narayana, RAS, MBCH, Wanaparthy, Mahabubnagar District.
29. T. Saritha Devi, S/o. TVR Reddy, School Assistant, MBCH, Mahabubnagar.
30. JY Narsiniharika, D/o. J. Yohan, SG Teacher, MBCH, Mahabubnagar.
31. J. Agonos Flolenco, D/o. KJ Williernas, SG Teacher, MBCH, Mahabubnagar.
32. Srinivas, S/o. Beem Reddy, SG Teacher, MBCH, Mahabubnagar.
33. D. Vanaja Kumari, D/o. D. Anajaiah, Telugu Pandit Teacher GR-II, MBCH, Mahabubnagar.
34. D. Rajeshwari, D/o. D. Veerashekaram, Jr. Assistant, MBCH, Mahabubnagar.
(RR 6 to 34 are impleaded as per Court Order dated 23.01.2004 in WPMP 33565 of 2003).

35.K.A.Esther Glory, D/o.K.S.Abraham,

R/o.Christian Colony, Mahbubnagar.

36.K.Timothy, S/o.Asheervadam,

R/o.Christian Colony, Jadcherla, Mahbubnagar Dist.

37.G.S.Thomas, S/o.Samson,

R/o.Jadcherla, Mahbubnagar Dist.

38.B.A. Victor, S/o.B.Abraham,

R/o.Mission Compound, Mahbubnagar.

39.P.L. Ruth Sheela, D/o.P.S.Lazarus,

R/o.Christian Colony, Mahbubnagar.

(RR 35 to 39 are impleaded as per Court Order dated 24-8-2004 in WPMP.No.4668 of 2004). **.....RESPONDENTS.**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or direction in the nature of mandamus or direction declaring the proceedings of the 4th respondent in RC No C1/11609/2002 dated 19-9-2003 as illegal, arbitrary, without jurisdiction, violative of the Fundamental Rights guaranteed under Article 14 of the Constitution of India and also violative of principles of natural justice and further declare that the instructions issued by the 2nd respondent in proceedings dated 24-9-2002 cannot be relied upon in view of the subsequent proceedings of the 2nd respondent dated 30-5-2003 and consequently direct the 3rd respondent to consider grant of approval for the selections made on 12-9-2003.

Counsel for the Petitioner: Mr.S.SRINIVAS REDDY

Counsel for the Respondents 1 to 4 : G.P. for School Education

Counsel for Respondent No.5: Mr.P.Amarender

Counsel for Respondents 6 to 34: Mr.M.Rama Rao

Counsel for Respondents 35 to 39: Mr. V.V. Narasimha Rao.

3)WRIT PETITION No. 22190 of 2003

Between:

B. Eranna, s/o B. Bazaarappa,
C/o V.T. Aayyanna, Shetti Atmakur Village,
Gadwal Mandal, Mahabubnagar District.

..... PETITIONER

AND

1.The Secretary, Board of Education (G.C), M.B. Schools, H.No. 16-155, Brahmam Gari Street, Wanaparthy - 509 103, Mahabubnagar district.
2.The Chairman, Board of Education (G.C) M.B. Schools, Mission Compound, Mahabubnagar, Mahabubnagar District.
3. The Deputy District Educational Officer, Mahabubnagar District, Mahabubnagar.
4. The District Educational Officer Mahabubnagar District, Mahabubnagar
5. The Collector, Mahabubnagar District, Mahabubnagar
6. The Regional Joint Director of School Education (6th Zone), Hyderabad.
7. The Commissioner & Director of School Education, A.P., Hyderabad

8. The Government of Andhra Pradesh, rep. by its Secretary, Education Department, Secretariat Buildings, Hyderabad.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more in the nature of Writ of Mandamus to declare the action of the respondents in cancelling the written test conducted by the 1st and 2nd respondents for recruitment to the post of drawing teacher held in pursuance to the employment notification dt. 27-5-2003 vide proceedings Rc.No. C.1/11609/2002 dt. 19-9-2003 of the 4th respondent as illegal , arbitrary, discriminatory and violative of Articles 14, 16 and 21 of Constitution of India and call for the records of recruitment and consequently direct the official respondents to conduct a detailed enquiry into this matter and thereafter proceed with the selections basing on the written test conducted by the 1st and 2nd respondents held on 12-9-2003 by conducting the interview afresh and award marks basing on the merit and further direct the respondents to appoint the petitioner as Drawing Teacher as per his merit, eligibility and suitability.

Counsel for the Petitioner: Mr.POODATTU AMARENDER

Counsel for the Respondents 3 to 8:G.P. for School Education.

Counsel for the Respondent No.2 : Mr. V.V.Narasimha Rao.

Counsel for Respondent No.1 : Mr. S.Srinivasa Reddy.

4)WRIT PETITION No. 25027 of 2003

Between:

1. Smt. DD Swarooparani D/o. DD Eswarlal,
School Assistant, MBCH, Mahabubnagar.
2. S.Venkateshwar Reddy S/o. S.Janakiram Reddy,
School Assistant, MBCH, Wanaparthy,Mahabubnagar.
3. Srinivas Reddy S/o. Narsi Reddy,
SG Teacher, MBCH, Narayanapet, Mahabubnagar District.
4. M.Raghavender S/o. Sree Ramulu,
SG Teacher, MBCH, Gadwal, Mahabubnagar District.
5. JL Asheerwadam S/o. JA Luthur,
SG Teacher, MBCH, Narayanapet, Mahabubnagar District.
6. Venkat Reddy S/o. Somi Reddy,
SG Teacher, MBCH, Narayanapet, Mahabubnagar District.
7. S.David S/o. S. Rathanam,
SG Teacher, MBCH, Gadwal, Mahabubnagar District.
8. Smt. Suveedamma, D/o. S. Rathnam,
SG Teacher, MBCH, Wanaparthy, Mahabubnagar District.
9. P.Deena Christdass S/o. PE Chirsttgdass,
School Assistant, MBCH, Wanaparthy,Mahabubnagar.
10. SG Mercy, D/o. SG George,
SG Teacher, MBCH, Gadwal, Mahabubnagar District.
11. M.D. Rajan babu S/o. M.Daniel,
SG Teacher, MBCH, Gadwal, Mahabubnagar District.
12. S.Sarala Devi D/o. B.Bakkaiah,

SG Teacher, MBCH, Wanaparthy, Mahabubnagar District.
13.T.Sivanna S/o. T.Hanummana,
SG Teacher, MBCH, Narayanapet, Mahabubnagar District.
14. P.Surender Kumar S/o. P.Devanandam,
SG Teacher, MBCH, Mahabubnagar.
15. K.Ramulu S/o. K.Thimmappa,
SG Teacher, MBCH, Gadwal, Mahabubnagar District.
16. KP Prasuna D/o. KV Purshotham,
SG Teacher, MBCH, Mahabubnagar.
17. V.Girijamma W/o. V.Narahari Rao,
Telugu Pandit Gr.I Teacher MBCH Mahabubnagar.
18. Hepsibha Rani D/o. KV Sunder,
Telugu Pandit Gr.I Teacher MBCH Mahabubnagar.
19. V.C.Soujanya D/o. VCJ Ramulu,
DM, MBCH Mahabubnagar.
20. P.G. Priyaka D/o. P.Geroge,
Jr.Asst.MBCH, Wanaparthy, Mahabubnagar District.
21. Nazeema D/o. Md.Osman,
RAS,MBCH, Gadwal, Mahabubnagar District.
22. Bhagavathamma D/o. P.Balamaisaiah,
RAS,MBCH, Mahabubnagar District.
23. BN David S/o. B.Narayana,
RAS MBCH, Wanaparthy, Mahabubnagar District.
24.T.Saritha Devi S/o. TVR Reddy,
School Asst., MBCH, Mahabubnagar.
25. JY.Narsiniharik D/o. J.Yohan,
SG Teacher, MBCH, Mahabubnagar.
26. J. Agnes Flolence, D/o. Williernas,
SG Teacher, MBCH, Mahabubnagar.
27. Srinivas Reddy, S/o. Beem Reddy,
SG Teacher, MBCH, Mahabubnagar.
28. D.Vanaja Kumari D/o. D.Anjaiah,
Telugu Pandit Gr.I Teacher MBCH Mahabubnagar.
29. D.Rajeshwari d/o. D.Veerashekaram,
Jr.Asst.MBCH, Mahabubnagar District.

..... PETITIONERS

AND

1. The Govt. of A.P. rep. by its Secretary to School Education, Secretariat, Hyderabad.
2. The Commissioner and Director of School Education, A.P. Saifabad, Hyderabad.
3. The Regional Joint Director of School Education, Zone -6, Kachiguda,Hyderabad.
4.The District Educational Officer, Mahabubnagar.
5.The Board of Education (Governing Council), MB Schools, MB Mission Building, Mahabubnagar, rep. by its Secretary, Mr.P.Geroge.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction, writ or order, one in the nature of Mandamus :- a) declaring the proceedings Dated:19-9-2003 bearing Rc.No.C1/11609/2002 issued by the Respondent No.4 i.e., District Educational Officer, Mahabubnagar cancelling the examination conducted on 12-9-2003 for filling up of the various vacant aided posts in M.B.Management Schools in which posts, the Petitioners herein are appointed after the selection, is without jurisdiction, arbitrary, illegal and against to the principles of natural justice and mala fide: b) directing the respondents to treat the petitioners appointments are valid appointments under rule -12 and 13 of the rules: c) granting all consequential benefits; d) awarding costs.

Counsel for the Petitioners: Mr.M.RAMA RAO

Counsel for the Respondents: GP FOR SCHOOL EDUCATION

Nos.1 to 4:

Counsel for the Respondent No.5 : Mr.S.Srinivasa Reddy.

The Court made the following :

COMMON ORDER:

W.P.No.21709 of 2003 is filed by the management of M.B. Schools and W.P.No.25027 of 2003 is filed by the selected teachers pursuant to the written test and interviews conducted on 12-9-2003, whereas W.P.Nos.21183 and 22190 of 2003 are filed by the unsuccessful candidates in the said examination.

It is stated that the management of M.B. Schools was permitted to conduct written test on 12-9-2003 for filling up of vacant aided posts by the District Educational Officer, Mahbubnagar vide proceedings dated 5-9-2003. Accordingly, written test was conducted on 12-9-2003. After conducting written test, it appears that certain candidates who appeared in the written test made a representation to the District Collector making certain allegations that the management had committed certain irregularities in filling up the aided posts. The District Collector ordered an enquiry into the matter. It appears that pursuant to the directions of the District Collector, the District Educational Officer himself conducted enquiry with regard to the allegations against the management and passed the impugned order cancelling the examination conducted on 12-9-2003 in view of the following irregularities.

1. As per sub-rule (5) of Rule 12 of G.O.Ms.No.1, Education, dated 1-1-1994, it is mentioned that the Educational Agency shall fix the selection process

(test/interview) in consultation with the Dist. Educational Officer or D.E.O's nominee and shall afford the D.E.O's nominee a reasonable opportunity of being present. But the management has never consulted the nominee of Dist. Educational Officer and deliberately not cooperated with the nominee in the entire selection process.

2. As per the instructions 7 and 7(c) of Commissioner & Director of School Education, A.P. Hyderabad Procs. Rc.No.1000/B1-3/2002, dated 24-9-2002 which are issued as per Rule 5(2) of G.O.Ms.No.75, Edn., dated 23-9-2002, the entire process of selection starting from setting up of question paper till putting the merit list on the notice Board shall be completed within a day and the subject experts shall prepare (190) questions and the members of the selection committee other than the subject experts shall select the required number of (95) questions. But the management has never consulted the nominee of Dist. Educational Officer and set the question paper on its own without involvement of D.E.O's nominee and same question paper was administered which is hereby irregular. In violation of the above rules the entire process was not completed in a day and question paper was set well in advance and questions prepared by the subject experts have not been included in the question paper. The candidates were administered the question paper which was prepared by the management itself. Thus it is not known who has prepared the question paper, when was it prepared, where was it prepared and in whose custody it was kept. Such question paper do not have any sanctity and validity for administration and there is every possibility of its leakage.

3. The Committee has also violated the instructions 7(g) (h)) and (i) of the Commissioner & Director of School Education's Procs. Rc.No.1000/B1-3/2002, dated 24-9-2002, the selection committee has not published the key on the Notice Board after the written test is over and before valuation starts and all the candidates have not been called for the Oral Test/Interviews, but the Committee in contrary to the above instructions conducted the interviews in the ratio of 1:3. As a result of this arbitrary act, many candidates have deprived the marks of oral test.

The competent authority as defined under Section 2(e) of the A.P. Educational Institutions (Establishment, Recognition, Administration and Control of Schools under Private Managements) Rules, 1993 issued in G.O.Ms.No.1, Education (P.S.2), dated 1-1-1994, means the authorities specified in Rule 3 for different purposes mentioned therein, which includes authority which is vested with the powers of granting permission or recognition or both to schools. The competent authority, under Rule 12(8) of the Rules, with regard to all appointments made either to teaching or non-teaching staff by aided or un-aided institutions in respect of

secondary schools, high schools and junior colleges, is the Regional Joint Director of School Education. Under Rule 12 of the said Rules, all appointments made by the educational agency in respect of staff as per staffing pattern prescribed by the Government are subject to the approval of the Regional Joint Director of School Education. The educational agency shall inform the competent authority within one month of the selection and he shall grant approval unless selection of candidates has been made in violation of rules. If the approval is not granted within two months in respect of unaided posts, the approval shall be deemed to have been granted. In order to obviate confusion, it shall be incumbent for the educational agency to remind the competent authority one month after the initial communication, if no approval is received. The burden of proof of communicating the selection shall lie with the educational agency.

Under the Rules, the District Educational Officer is not the approving authority with regard to the appointment of teaching staff and, therefore, I am of the view that the order of the District Educational Officer, dated 19-9-2003 cancelling the written test conducted on 12-9-2003 is illegal and without jurisdiction. Accordingly, the said order is set aside and the management of M.B. Schools is directed to send proposals for necessary approval in respect of selected candidates who are said to have been selected pursuant to the written test held on12-9-2003 to the Regional Joint Director of School Education, Zone-VI, Kachiguda, Hyderabad, if not already sent, within fifteen days from the date of receipt of a copy of this order. If any proposals are already sent and the same are received, the Regional Joint Director is directed to pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. It is made clear that if the selections are in violation of the rules, it is open for the competent authority to take appropriate decision.

The writ petitions are accordingly disposed of. No order as to costs.

24th August 2004. **(V.ESWARAIAH, J.)**

ARS

To

1. The District Collector, Mahabubnagar District, Mahabubnagar.
2. The District Educational Officer, Mahabubnagar District, Mahabubnagar.
3. The Deputy District Educational Officer, Mahabubnagar.

4. The Secretary to the Government, School Education Department, Secretariat, Hyderabad.
5.The Commissioner & Director of School Education,

Safabad, Hyderabad.
6.The Regional Joint Director of School Education, Zone-VI Kachiguda, Hyderabad.

7Two C.Cs. to Govt. Pleader for School Education, High Court Bldgs., Hyderabad (OUT).

8.The Secretary, Board of Education (GC), M.B.Schools, H.No.16-155, Brahmamgari Street, Wanaparthy-509103, Mahbubnagar Dist.

9.The Chairman, Board of Education (GC), M.B.Schools, Mission Compound, Mahbubnagar, Mahbubnagar Dist.

10.Two C.D. copies.